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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/955,457 | 09/17/2001 | Donald J. Stavely | 10992614 -1 | 1314 |

7590 07/15/2005

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| EXAMINER |
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YODER III, CHRISS S

| ART UNIT | PAPER NUMBER |
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2612

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|----------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 09/955,457 | Applicant(s) STAVELY ET AL. | |
| | Examiner Chriss S. Yoder, III | Art Unit 2612 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 7, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al. (US Patent # 5,617,141).
2. In regard to claim 1, note Nishimura discloses the use of a method of simulating fill flash in a camera system comprising the steps of determining distances from the camera to objects in a scene (column 5, lines 22-27), taking a photograph of the scene (column 4, lines 60-65; although it is not explicitly stated that the photograph is taken without a flash, it is implied because nowhere in Nishimura is the use of a flash disclosed, and the distance is not determined using a flash), and selectively adjust the brightness of regions of the photograph based on the distance information (column 5, line 52 – column 7, line 17). Therefore, it can be seen that the Nishimura device fails to capture the image without using a flash. Official notice is taken that the concepts and

Art Unit: 2612

advantages of using a camera without a flash to capture an image are notoriously well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to capture the image without a flash in order to capture an image in an area where the use of a flash would be inappropriate or unnecessary.

3. In regard to claim 7, note Nishimura discloses the use of a camera system for simulating fill flash in a camera system comprising determining distances from the camera to objects in a scene (column 5, lines 22-27), taking a photograph of the scene (column 4, lines 60-65; although it is not explicitly stated that the photograph is taken without a flash, it is implied because nowhere in Nishimura is the use of a flash disclosed, and the distance is not determined using a flash), and selectively adjust the brightness of regions of the photograph based on the distance information (column 5, line 52 – column 7, line 17). Therefore, it can be seen that the Nishimura device fails to capture the image without using a flash. Official notice is taken that the concepts and advantages of using a camera without a flash to capture an image are notoriously well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to capture the image without a flash in order to capture an image in an area where the use of a flash would be inappropriate or unnecessary.

4. In regard to claim 14, note Nishimura discloses the use of a camera system for simulating fill flash in a camera system comprising determining distances from the camera to objects in a scene (column 5, lines 22-27), taking a photograph of the scene

Art Unit: 2612

(column 4, lines 60-65; although it is not explicitly stated that the photograph is taken without a flash, it is implied because nowhere in Nishimura is the use of a flash disclosed, and the distance is not determined using a flash), and selectively adjust the brightness of regions of the photograph based on the distance information (column 5, line 52 – column 7, line 17). Therefore, it can be seen that the Nishimura device fails to capture the image without using a flash. Official notice is taken that the concepts and advantages of using a camera without a flash to capture an image are notoriously well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to capture the image without a flash in order to capture an image in an area where the use of a flash would be inappropriate or unnecessary.

5. Claims 2-4, 8-11, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al. (US Patent # 5,617,141) in view of Parulski et al (US Patent # 5,563,658).

6. In regard to claim 2, note Nishimura discloses the use of a method of simulating fill flash in a camera system as claimed in claim 1. Therefore, it can be seen that the Nishimura reference fails to disclose the taking of a series of photographs with the camera configured to focus on objects at various distances from the camera and analyzing the series of photographs and corresponding focus distances. Parulski discloses the taking of a series of photographs with the camera configured to focus on objects at various distances from the camera (column 6, lines 5-17; the camera continuously captures images until the focus is acquired) and analyzing the series of

Art Unit: 2612

photographs and corresponding focus distances (column 6, lines 5-17; the camera is continually analyzing the images until an image is acquired in focus). Parulski teaches that the taking of a series of photographs with the camera configured to focus on objects at various distances from the camera and analyzing the series of photographs and corresponding focus distances is preferred in order to decrease the amount of time it takes to focus the camera (column 2, lines 25-31). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to include the taking of a series of photographs with the camera configured to focus on objects at various distances from the camera, storing said photographs along with a focus distance for each photograph, and analyzing the series of photographs and corresponding focus distances as suggested by Parulski.

7. In regard to claim 3, note Parulski discloses the computing of the contrast in the image (column 6, lines 5-17).

8. In regard to claim 4, note Parulski discloses that the step of determining the distances to objects at locations in the scene further comprises locating the particular photograph in the series of photographs with the spatial contrast metric indicating that objects at that location in the scene are more nearly in focus in that particular photograph than in any other in the series of photographs (column 6, lines 5-17; the camera is continually analyzing the images until an image is acquired that is the best possible focused image) and identifying the distance from the camera to objects at that location in the scene as the focus distance stored in connection with that particular

Art Unit: 2612

photograph (column 6, lines 5-17; the contrast value is considered to be the equivalent of the distance and is stored with the image).

9. In regard to claim 8, note Nishimura discloses the use of a method of simulating fill flash in a camera system as claimed in claim 7. Therefore, it can be seen that the Nishimura reference fails to disclose the taking of a series of photographs with the camera configured to focus on objects at various distances from the camera and analyzing the series of photographs and corresponding focus distances to determine the object distances. Parulski discloses the taking of a series of photographs with the camera configured to focus on objects at various distances from the camera (column 6, lines 5-17; the camera continuously captures images until the focus is acquired) and analyzing the series of photographs and corresponding focus distances to determine the object distances (column 6, lines 5-17; the camera is continually analyzing the images until an image is acquired in focus). Parulski teaches that the taking of a series of photographs with the camera configured to focus on objects at various distances from the camera and analyzing the series of photographs and corresponding focus distances to determine the object distances is preferred in order to decrease the amount of time it takes to focus the camera (column 2, lines 25-31). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to include the taking of a series of photographs with the camera configured to focus on objects at various distances from the camera, storing said photographs along with a focus distance for each photograph, and analyzing the series of photographs and

Art Unit: 2612

corresponding focus distances to determine the object distances as suggested by Parulski.

10. In regard to claim 9, note the primary reference of Nishimura in view of Parulski discloses the use of a camera system which simulates fill flash by determining distances from the camera as claimed in claim 8. Therefore, it can be seen that the primary device lacks a computer separate from the camera and wherein the series of trial photographs and their focus distances are transmitted to the separate computer for analysis and the simulation of fill flash. Official notice is taken that the concepts and advantages of the transfer of image data along with additional information from a camera to an external computer is notoriously well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the primary device to include the use computer separate from the camera, and wherein the series of trial photographs and their focus distances are transmitted to the separate computer for analysis and the simulation of fill flash in order to edit the images for printing and storage.

11. In regard to claim 10, note Parulski discloses the computing of the contrast in the image (column 6, lines 5-17).

12. In regard to claim 11, note Parulski discloses that the step of determining the distances to objects at locations in the scene further comprises locating the particular photograph in the series of photographs with the spatial contrast metric indicating that objects at that location in the scene are more nearly in focus in that particular photograph than in any other in the series of photographs (column 6, lines 5-17; the

Art Unit: 2612

camera is continually analyzing the images until an image is acquired that is the best possible focused image) and identifying the distance from the camera to objects at that location in the scene as the camera focus distance stored in connection with that particular photograph (column 6, lines 5-17; the contrast value is considered to be the equivalent of the distance and is stored with the image).

13. In regard to claim 23, note Parulski discloses the selection of one image from a series of photographs taken in determining the distances from the camera to objects in the scene (column 6, lines 5-17; the camera continuously captures images until the focus is acquired). Nishimura discloses that the use of the selected photograph is used as the photograph in which the brightness of regions is selectively adjusted (column 5, lines 52-57).

14. In regard to claim 24, note Parulski discloses the selection of one image from a series of photographs taken in determining the distances from the camera to objects in the scene (column 6, lines 5-17; the camera continuously captures images until the focus is acquired). Nishimura discloses that the use of the selected photograph is used as the photograph in which the brightness of regions is selectively adjusted (column 5, lines 52-57).

15. Claims 5-6 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al. (US Patent # 5,617,141) in view of Miyadera (US Patent # 5,550,587).

16. In regard to claim 5, note Nishimura discloses the use of a method of simulating fill flash in a camera system as claimed in claim 5. Therefore, it can be seen that the

Art Unit: 2612

Nishimura reference fails to disclose that the regions containing objects closer to the camera are lightened in the resulting photograph in relation to regions containing objects farther from the camera. Miyadera discloses that the regions containing objects closer to the camera are lightened in the resulting photograph in relation to regions containing objects farther from the camera (column 14, lines 1-6). Miyadera teaches that the lightening of objects that are closer is preferred so that objects at a short distance are reproduced in proper color corresponding to the long distance (column 1, lines 35-40). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to include the lightening of objects that are closer as suggested by Miyadera.

17. In regard to claim 6, note the primary reference of Nishimura in view of Miyadera discloses the use of a method of simulating fill flash in a camera system as claimed in claim 5. Therefore, it can be seen that the Nishimura device fails to modify the brightness of regions in the resulting photograph in accordance with the inverse square law. Official notice is taken that the concepts and advantages of brightening an image in accordance with the inverse square law are notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the primary device to include the use of brightening the image in accordance with the inverse square law in order to compensate for the degraded image quality due to the effects of the inverse square law.

18. In regard to claim 12, note Nishimura discloses the use of a method of simulating fill flash in a camera system as claimed in claim 5. Therefore, it can be seen that the

Art Unit: 2612

Nishimura reference fails to disclose that the regions containing objects closer to the camera are lightened in the resulting photograph in relation to regions containing objects farther from the camera. Miyadera discloses that the regions containing objects closer to the camera are lightened in the resulting photograph in relation to regions containing objects farther from the camera (column 14, lines 1-6). Miyadera teaches that the lightening of objects that are closer is preferred so that objects at a short distance are reproduced in proper color corresponding to the long distance (column 1, lines 35-40). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to include the lightening of objects that are closer as suggested by Miyadera.

19. In regard to claim 13, note the primary reference of Nishimura in view of Miyadera discloses the use of a camera system which simulates fill flash by determining distances from the camera as claimed in claim 12. Therefore, it can be seen that the Nishimura device fails to modify the brightness of regions in the resulting photograph in accordance with the inverse square law. Official notice is taken that the concepts and advantages of brightening an image in accordance with the inverse square law are notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the primary device to include the use of brightening the image in accordance with the inverse square law in order to compensate for the degraded image quality due to the effects of the inverse square law.

20. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al. (US Patent # 5,617,141) in view of Kikuchi (US Patent # 6,757,020).

Art Unit: 2612

21. In regard to claim 15, note Nishimura discloses the use of a method of simulating fill flash in a camera system as claimed in claim 1. Therefore, it can be seen that the Nishimura device lacks the use of varying the amount of brightness adjustment in response to a user control. Kikuchi discloses the use of varying the amount of brightness adjustment in response to a user control (column 1, lines 27-32). Kikuchi teaches that the use of a user adjustable brightness value is preferred in order to properly capture an image that is desired by the user (column 1, lines 30-37). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to include varying the amount of brightness adjustment in response to a user control as suggested by Kikuchi.

22. In regard to claim 16, note Kikuchi discloses that the user control is comprised in the camera (column 1, lines 48-54; and figure 1:64).

23. In regard to claim 17, note Kikuchi discloses the display of the effect of brightness adjustment on the display (column 1, lines 27-37).

24. In regard to claim 18, note Kikuchi discloses that the display is comprised in the camera (column 1, lines 48-54; and figure 1:44).

25. In regard to claim 19, note Nishimura discloses the use of a method of simulating fill flash in a camera system as claimed in claim 7. Therefore, it can be seen that the Nishimura device lacks the use of varying the amount of brightness adjustment in response to a user control. Kikuchi discloses the use of varying the amount of brightness adjustment in response to a user control (column 1, lines 27-32). Kikuchi teaches that the use of a user adjustable brightness value is preferred in order to

Art Unit: 2612

properly capture an image that is desired by the user (column 1, lines 30-37).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to include varying the amount of brightness adjustment in response to a user control as suggested by Kikuchi.

26. In regard to claim 20, note Kikuchi discloses that the user control is comprised in the camera (column 1, lines 48-54; and figure 1:64).

27. In regard to claim 21, note Nishimura discloses the use of a method of simulating fill flash in a camera system as claimed in claim 7. Therefore, it can be seen that the Nishimura device lacks the use displaying the effect of brightness adjustment on the display. Kikuchi discloses the displaying the effect of brightness adjustment on the display (column 1, lines 27-37). Kikuchi teaches that the use of a user adjustable brightness value is preferred in order to properly capture an image that is desired by the user (column 1, lines 30-37). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Nishimura device to include displaying the effect of brightness adjustment on the display as suggested by Kikuchi.

28. In regard to claim 22, note Kikuchi discloses that the display is comprised in the camera (column 1, lines 48-54; and figure 1:44).

Conclusion

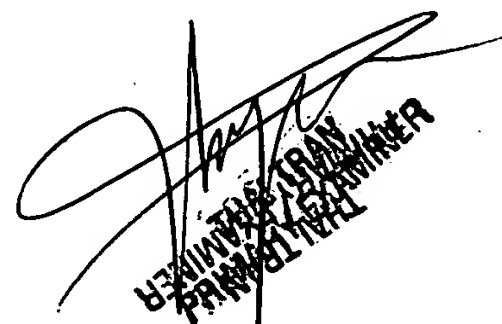
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chriss S. Yoder, III whose telephone number is (571) 272-7323. The examiner can normally be reached on M-F: 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (571) 272-7308. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Handwritten signature of the examiner, Chriss S. Yoder, III, over a circular official stamp. The stamp contains the text "EXAMINER" and "UNIT 2612".